UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
---X
STEPHANIE LEWIS

Plaintiff,

FIRST AMENDED COMPLAINT

Jury Trial Demanded

-against-

Index Nos. CV-04-2331
CV-04-4237
(SLT) (ASC) (MDG)

NEW YORK CITY TRANSIT AUTHORITY, RICHARD DICCIARELLO RICHARD HERMAN, STEVE LOPIANO, TOMMY DAVIS, BENNY PEPPERINO, BONNIE BELLAMAY, CHARLES GLASGOW, BRIDGET COOPER MATHIS, AND ELIZABETH CURREY

Defendants
---X

Plaintiff STEPAHINE LEWIS, by and through the undersigned attorneys, alleges as follows:

NATURE OF ACTION

1. Plaintiff brings this action to remedy:

(A) Discrimination on the basis of religion and gender in the terms, conditions and privileges of employment in violation of: (a) the Title VII of the Civil Right Act of 1964, as amended, 42 U.S.C. §§ 2000 et seq.; (b) New York Executive Law § 292(1), § 296 (10)(a), (c); New York City Administrative Code § 8-107(1).

(B) Failure to Accommodate religious beliefs under the terms, conditions and privileges of employment in violation of: § 701 (j) of Title VII of the Civil Rights

Act, as amended at 42 U.S.C. § 2000e(j), New York Executive Law § 296(10)(b), City HRL § 8-107(3).

(C) Disparate Treatment under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C §§ 2000 et seq.; The New York Executive Law, and the New York City Administrative Code.

(D) Disparate Impact under § 703(k) of Title VII of the Civil Rights Act of 1991, as amended, 42 U.S.C. § 2000e-2(k); the City HRL § 8-107(17).

(E) Conspiracy to Discriminate based on plaintiff's religion and gender under the New York Executive Law § 296(6).

(F) Retaliation against an employee for having complained of discrimination in violation of Title VII of the Civil Rights Act, 42 U.S.C. § 2000e-3(a), New York Executive Law § 296(7), and the City Administrative Code § 8-107(7), (19).

(G) Deprivation of rights guaranteed by 42 U.S.C. § 1983, the First and Fourteenth Amendments to the United States Constitution, and Article 1, section 8 and 11 of the New York State Constitution. Plaintiff seeks both declaratory relief and monetary damages.

(H) Unlawful discharge with malice or reckless indifference to the federally protected rights of the plaintiff based on her religious beliefs practices and gender pursuant to 42 U.S.C. §§ 2000e-1(a)(1), New York Executive Law § 296(1), and New York City Administrative Code § 8-107(1).

JURISDICTION AND VENUE

2. This Court has jurisdiction over plaintiff's Title VII claims under 42 U.S.C. § 2000e-5(f)(3), 28 U.S.C. §§ 1331, 1343(a)(3) and (a)(4).

3. This Court has supplemental jurisdiction over plaintiff's state and city law claims under 28 U.S.C. § 1367(a), since plaintiff's federal and state law claims arise from a common nucleus of operative facts and are so intertwined as to make the existence of supplemental jurisdiction over the state and city law claims appropriate.

4. Plaintiff has complied with the prerequisite to jurisdiction under Title VII. On February 4, 2003, plaintiff filed a timely charge with the Equal Employment Opportunity Commission ("EEOC") alleging that the NYC Transit Authority ("TA") discriminated against her based on religion, religious beliefs and gender and failed to accommodate her religious beliefs.

5. Plaintiff states that On February 12, 2003, the TA took adverse action against her by not allowing her to drive the passenger bus, relegating her to other job duties at the Flatbush Depot ("Depot"), rescinding her reassignment, and finally unlawfully terminating her.

6. On March 4, 2004, the EEOC issued plaintiff a Right-to-Sue letter in the Federal Court on the above charges. The letter was mailed on March 7th and received by our office on March 10, 2004.

7. In its letter, however, the EEOC confused the date of TA' s adverse action against plaintiff, February 12, 2003, with the date of her return from her disability leave,

February 6, 2003. Thereby, concluding that the federal charge was not filed timely.

8. On March 12, 2004, our office sent a letter to correct the EEOC's confusion as to the date of the adverse action and discrimination and that of the plaintiff's return from her disability leave.

9. Plaintiff complied with the requirements of N.Y.C. Admin. Code § 8-502(C). A copy of the complaint has been served on the New York City Commission on Human Rights and the New York City Corporation Counsel.

10. Venue is proper in the Eastern District of New York under 28 U.S.C. § 1391 (b) in that the plaintiff resides in Brooklyn.

PARTIES

11. Plaintiff, Stephanie Lewis resides at 947 Montgomery Street, Apt. #5, Brooklyn, NY. Plaintiff is a female and a Muslim-American. She has been employed by the TA as a Bus Operator since March of 1989.

12. The defendant TA is a municipal corporation duly organized and existing under the laws of the State of New York. At all times material to this action, the TA was the plaintiff's "employer" within the meaning of Section 701(f) of Title VII (42 U.S.C. § 2000e(f), Section 292(1) of the State HRL, and Section 8-102(1) of the City HRL. The City is also a "person" within the meaning of 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution.

13. Richard Dicciardello is the General Superintendent within the TA. He is responsible for following employment directives and policies, including religious

accommodation of religious beliefs and equality between male and female employees. He is also responsible for ensuring that the TA does not deprive any individual of rights secured by federal or state law. He is also responsible for hiring, screening, training, retention, supervision, discipline and counseling at the TA. Defendant Richard Dicciardello knew or should have known of the discriminatory customs, practices, policies, and wrongful acts described in the complaint but nonetheless, condoned, ratified, and/or authorized such conduct. He is being sued in his official and individual capacities.

14. Richard Herman is the Dispatcher within the TA. He is responsible for implementing employment policies and operations. He participated in various TA decisions to deny plaintiff's employment, educational and training opportunities. He is being sued in his official and individual capacities.

15. Benny Pepperino is the Dispatcher at the Depot. He participated in various TA decisions to deny plaintiff's employment, educational and training opportunities. He retaliated against plaintiff for speaking out against her discrimination. He is being sued in his official and individual capacities.

16. Tommy Davis is the Dispatcher at the Depot. He participated in various TA decisions to deny plaintiff's employment, educational and training opportunities. He exposed plaintiff to daily harassment and hostile environment and retaliation. He is being sued in his official and individual capacities.

17. Steve Lopiano is the Assistant General Manager at the Depot. He participated in various TA decisions to deny plaintiff's employment, educational and training opportunities. He exposed plaintiff to daily harassment and hostile work

environment and retaliation. He is being sued in his official and individual capacities.

18. Bonnie Bellamay, Charles Glasgow, and Bridget Cooper Mathis participated in various TA decisions to discharge plaintiff, and to deny plaintiff's employment, educational and training opportunities. They exposed plaintiff to harassment, hostile work environment and retaliation. They are being sued in their official and individual capacities.

19. Elizabeth Currey is the General Superintendent with the TA. She participated in various TA decisions to discharge plaintiff, and to deny plaintiff's employment, educational and training opportunities. She is being sued in her official and individual capacities.

20. At all times material to this action, defendants have acted under color or custom or usage of law and continue to so act, depriving plaintiff of rights, privileges, and immunities secured to her by the constitution and laws of the United States and the State of New York, and in direct violation of the Civil Rights Act of 1871, 42 U.S.C. § 1983.

21. Defendants individually and in their official capacities have individually and collectively attempted to coerce her to wear a uniform in violation of her religious beliefs and practices.

22. Defendants individually and in their official capacities have individually and collectively discriminated, retaliated against and terminated plaintiff on the basis of religion and gender.

FACTUAL ALLEGATIONS

23. Plaintiff is a female Muslim-American. As required by her Religion, Islam, she wears a scarf (“khimar”) as her only head cover.

24. Plaintiff has been employed by defendant since March 27, 1989. She held the title of Bus Operator, and more recently that of Station Agent.

25. Plaintiff has worked in those capacities during her 16 years of employment with the TA, the later title she held for less than one day. Her primary duties have been that of a Bus Operator. As such she has been responsible for driving a passenger TA bus. She has also been responsible for transporting passengers on a TA bus.

26. Since plaintiff commenced her employment with the TA, she has worn a khimar without any complaint or discipline.

27. During her tenure as a passenger Bus Operator, she was never reprimanded on her job performance or behavior.

28. During her 16 years of service as Bus Operator, plaintiff has received numerous positive work performance evaluations. She performed her duties as a Bus Operator with professionalism and courtesy. A substantial number of passengers have sent letters and/or commendations to defendants praising plaintiff on for her professionalism and courtesy.

29. In March 27, 2002, plaintiff went out on disability leave. She returned to work on February 6, 2003.

30. Upon her return, she was required to attend a course called 19-A Re-Certification.

31. The course is mandatory for Bus Operators returning from a long leave of absence. While taking the course, the General Superintendent Richard Dicciardello in the presence of Union Chairperson Louretha Carter, supplied plaintiff with the TA hat and instructed her to wear it when she returned to work.

32. Plaintiff passed all her Re-Certification tests and reported to work on February 11, 2003. While the plaintiff was operating the bus, Dispatcher Richard Herman boarded the bus and cited plaintiff for not wearing the TA hat.

33. Plaintiff expressed her refusal to wear the TA hat over her “khimar” because it violated her religious beliefs.

34. On February 12, 2003, Superintendent Richard Dicciardello, in the presence of the Union representatives, Louretha Carter and Vice Chairperson of the Flatbush Depot Carlos Clarke, informed plaintiff that because she refused to wear the TA hat she would be relieved of her duties as a Bus Operator.

35. Plaintiff was assigned to duties at the Depot beginning February 12, 2003.

36. Defendant disciplined plaintiff by relegating her to depot duties such as janitorial work, shifting buses within depots, transporting out of service buses to Tarrytown, NY, Zeerega Depot, Bronx, NY E.N.Y. Depot, Brooklyn, Lodi, NJ, Pensky, Bronx, NY.

37. Plaintiff suggested that she make the “khimar” with the same material and color as the TA uniform with the logo on top. Defendants refused her request.

38. Plaintiff complained about her discrimination to the media on February 26, 2003. As a result, defendants started harassing her and exposing her to hostile environment in retaliation.

39. Dispatcher Tommy Davis required plaintiff to inform him whenever she steps out to the bathroom.

40. On or about March 27, 2003, Dispatcher Tommy Davis yelled at plaintiff for going to the ladies room without informing him, while other employees were not obligated to make such a report.

41. When plaintiff complained of such harassment to Louretha Carter, Ms. Carter merely asked plaintiff to go along and play the game.

42. On or about April 3, 2003, Amin Khan, Vice President of the Transit Workers Union 100 ("TWU 100") told plaintiff that she was splitting up the depot and causing problem by not accepting the new duties which were being assigned to her.

43. On or about April 3, 2003, plaintiff filed a grievance against defendant Steve Lopiano with Amin Khan for harassment, humiliation, retaliation and hostile environment.

44. On or about April 3, 2003, Amin Khan stated to plaintiff that he was able to prevent the TA from discharging plaintiff as a result of her refusal to wear the TA hat over her khimar.

45. On or about June 17, 2003, Superintendent Dicciardello advised plaintiff that she was taking away jobs from other employees at the depot by shifting buses within depot. Defendant Dicciardello wanted plaintiff to perform janitorial duties such as cleaning buses and depot.

46. On or about July, 2003, plaintiff questioned Billy Pellitier, the division person for the TWU, as to why the male employees at the depot were authorized to choose

their duties, while plaintiff and the other Muslim women were not allowed to choose. Mr. Pellitier replied by saying that these men were taken out of the passenger Bus Operation (because of accidents) while plaintiff and the other Muslim women took themselves out of the passenger bus operation because they refused to compromise their religious beliefs.

47. On or about August, 13, 2003, Dispatcher Benny Pepperino put plaintiff on hold for 15 minutes while she was calling for information and then hung up on her. When plaintiff insisted on speaking to him he got on the phone and started yelling at her.

48. On or about October 10, 2003, plaintiff and the other Muslim women disciplined were ordered to sign in and out and had to report their lunch time or their brief leave to the ladies room while other employees at the depot did not have to comply with this procedure.

49. On or about October 24, 2003, Dispatcher Benny Pepperino told plaintiff that she should work at Wendy's since they would not mind having her wearing that "rag on her head."

50. During the relevant time period, the TA's dress code for Bus Operators stated that TA issued hats were "optional" and Bus Operators are not required to wear them while driving the passenger buses.

51. Defendants failed to provide plaintiff with any written rule or regulation which prohibits her from wearing a khimar while driving the passenger bus.

52. To date, defendants have not been able to articulate legitimate reasons for discriminating against plaintiff based on her religion and gender. Instead they are

continuing to discipline her and retaliate against her for complaining about her being discriminated against.

53. Upon information and belief TA enforcement of its uniform policy is disparate and uneven, as many TA employees violate the express uniform regulations on a daily basis without being penalized.

54. Upon information and belief all Muslim women Bus Operators were singled out because of their religion and gender. Muslim men were allowed to operate buses without wearing the TA hat over their "Kufi", a religious hat Muslim men wear.

55. The three Muslim women Bus Operators including plaintiff have been singled out for the same discrimination and treatment.

56. The TA treated the Muslim women Bus Operators with disparity by subjecting them to inferior treatment and exposing them to harsher consequences than the other Bus Operators because of their religion and gender.

57. The defendants' decision to require the three Muslim women Bus Operators to wear the TA hat against their religious beliefs while allowing male Bus Operators to drive bus without wearing the hat has resulted in discrimination based on the plaintiff's gender and religion.

58. The two other women filed their discriminatory complaint against the TA in the Eastern District of New York.

59. At all times material to this action, the TA was plaintiff's "employer" within the meaning of section 701(f) of Title VII (42 U.S.C. § 2000e(f), Section 292(1) of the New York State Executive Law, and Section 8-102(1) of the New York City Administrative Code.

60. On October 27, 2003, plaintiff suffered debilitating injuries that directly resulted from her being forced to work in the Depot yard. She fell backwards over a fare box hose, striking her head, elbow and back.

61. Plaintiff was knocked unconscious and subsequently hospitalized.

62. Consequently, plaintiff has been physically unable to perform the duties associated with being a Bus Operator and depot worker.

63. On or about August 18, 2004, plaintiff was notified in a letter signed by Elizabeth Currey that she would be terminated due to a one year cumulative absence resulting from service connected illness/injury unless she accepted reclassification.

64. On or about September 17, 2004, plaintiff participated in the reclassification process.

65. Subsequently plaintiff completed a medical examination.

66. On February 18, 2005, plaintiff was found medically qualified for a Station Agent position.

67. On April 4, 2005 plaintiff enrolled in the mandatory Station Agent training course.

68. On April 28, 2005 Plaintiff was certified for a Station Agent position.

69. The TA officials imposed upon plaintiff a uniform policy that was neither discussed nor negotiated with her attorneys, or the TWU.

70. On April 29, 2005, as plaintiff commenced her Station Agent shift, TA officials Bonnie Bellamay, Charles Glasgow and Bridget Cooper Mathis asked to meet with her without the presence of her attorney.

71. The TA officials attempted to discuss with plaintiff the uniform issued to her. Upon plaintiff's refusal to discuss it without her attorney present, TA officials sent her home and asked her not to return to work.

72. Thereafter on April 29, 2005 the TA sent plaintiff a letter rescinding her reassignment.

73. On June 14, 2005, the TA issued to plaintiff a Notice of Termination signed by Elizabeth Currey wherein the TA terminated her employment.

74. On July 14, 2005, Arbitrator Richard Adelman ruled that the TA's termination of plaintiff's employment was in violation of a previous order maintaining that plaintiff is to remain employed by the TA until her case is resolved.

75. Arbitrator Adelman ruled further that the TA must either reinstate plaintiff to a Station Agent position, or return her to her prior position as a Bus Operator.

76. It was not until August 8, 2005, over three weeks after Arbitrator Adelman issued his order, that the TA finally sent to Ms. Lewis a letter rescinding her termination.

77. To date, in violation of the Arbitrator's decision Ms. Lewis has not been placed back on the employment schedule and has not worked any shifts since her termination. Plaintiff is still terminated.

78. Upon information and belief the TA has allowed Muslim women Station Agents to work without hassle, while wearing khimars with no TA logo.

79. Well over one month has passed since the August 8, 2005 reinstatement letter, with the TA having taken no substantive action to return plaintiff to her employment as a Station Agent or Bus Operator.

80. All of plaintiff's medical and other benefits were cancelled in April 2005.

81. Plaintiff has not received a paycheck since April 2005.

82. As a result, plaintiff has been under much undue physical and mental stress due to her financial straits and worsening medical condition.

83. Plaintiff has experienced great difficulty paying common bills and maintaining household expenses.

84. Plaintiff's health is continually deteriorating as a result of defendants' latest adverse actions against her.

85. Plaintiff cannot afford medicine necessary to her health and well-being, including medicine for her Diabetes.

FIRST CLAIM FOR RELIEF

(Employment Discrimination)

86. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 85 above with the same force and effect as if fully set forth herein.

87. Defendant TA has discriminated against plaintiff in terms of conditions of her employment on the basis of her religion, and gender in violation of Section 703(a)(2) of Title VII (42U.S.C. § 2000e-2(a)(2)), Section 296 of the State HRL, and Section 8-107 of the City HRL.

88. Defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, discriminated against plaintiff

in terms of conditions of her employment on the basis of her religion, and gender in violation of Section 296 of the State HRL, and Section 8-107 of the City HRL.

89. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

89. All of these damages have been exacerbated by the latest events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

SECOND CLAIM FOR RELIEF

(Unlawful Discrimination and Demotion)

90. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 89 above with the same force and effect as if fully set forth herein.

91. Defendant TA has unlawfully and intentionally demoted plaintiff based on her religion, gender and religious appearance in violation of 42 U.S.C. §§ 2000-1(a)(1), Section 296 (1) of the State HRL, and Section 8-107 of the City HRL.

92. Defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, have unlawfully and intentionally demoted plaintiff based on her religion, gender and religious appearance in violation of Section 296 (1) of the State HRL, and Section 8-107 of the City HRL.

93. Defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's discriminatory acts , individually and collectively, were motivated by religious animus and were performed with the intent to discriminate against plaintiff based on her religion and gender.

94. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as in money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

95. All of these damages have been exacerbated by the events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

THIRD CLAIM FOR RELIEF

(Failure to Accommodate Religious beliefs and practices)

96. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 94 above with the same force and effect as if fully set forth herein.

97. Defendant TA failed to offer religious accommodation to plaintiff in violation of Section 701(j) of Title VII (42 U.S.C. § 2000e(j)), Section 296 of the State HRL, and Section 8-107 of the City HRL.

98. Defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, have failed to offer religious accommodation to plaintiff in violation of Section 296 of the State HRL, and Section 8-107 of the City HRL.

99. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

100. All of these damages have been exacerbated by the events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

FOURTH CLAIM FOR RELIEF

(Disparate Treatment)

101. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 98 above with the same force and effect as if fully set forth herein.

102. Defendant TA has unlawfully treated plaintiff and other TA Muslim female employees less favorably because of their religion and gender pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000 *et seq*.; The New York Executive Law § 296, and the City Human Rights Law § 8-107(17).

103. Defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, unlawfully treated plaintiff and other TA Muslim female employees less favorably because of their religion and gender pursuant the New York Executive Law § 296, and the City Human Rights Law § 8-107(17).

104. As a result of defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's disparate treatment, individually and collectively, against plaintiff, she has been

prevented from working as a passenger Bus Operator, as well as from improving and advancing her career.

105. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

106. All of these damages have been exacerbated by the events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

FIFTH CLAIM FOR RELIEF

(Disparate Impact)

107. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 103 above with the same force and effect as if fully set forth herein.

108. The defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful

employment practice, individually and collectively, has resulted in discrimination against plaintiff based on her religion and gender.

109. Plaintiff was discriminated against by the defendant TA because she is a woman and a Muslim in violation of Disparate Impact under § 703(k) of Title VII of the Civil Rights Act of 1991, as amended, 42 U.S.C. § 2000e-2(k)and the City HRL § 8-107(17).

110. Plaintiff was discriminated against by the defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, because she is a woman and a Muslim in violation of Disparate Impact under the City HRL § 8-107(17).

111. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

112. All of these damages have been exacerbated by the events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

SIXTH CLAIM FOR RELIEF

(Gender Discrimination)

113. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 108 above with the same force and effect as if fully set forth herein.

114. Defendant TA's acts were motivated by gender animus and were exhibited with the intent to discriminate based on gender in violation of Title VII, 42 U.S.C. § 2000-2, The New York Executive Law § 296 *et seq*. and the City HRL § 8-107.

115. Defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's acts, individually and collectively, were motivated by gender animus and were exhibited with the intent to discriminate based on gender in violation of the New York Executive Law § 296 *et seq*. and the City HRL § 8-107.

116. Defendant TA and defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, disciplined plaintiff and prevented her from operating the passenger bus, while allowing male Bus Operators to drive passenger buses without having to wear the TA hat over their "Kufi."

117. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's

wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

118. All of these damages have been exacerbated by the latest events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

SEVENTH CLAIM FOR RELIEF

(Retaliation)

119. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 113 above with the same force and effects as if fully set forth herein.

120. Defendant TA has retaliated against plaintiff for having complained of religious discrimination in the terms and conditions of employment in violation of Section 704 of Title VII (42 U.S.C. § 2000e-3), Section 296 (7) of the State HRL, and Section 8-107(7) of the City HRL.

121. Defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, retaliated against plaintiff for having complained of religious discrimination in the terms and conditions of

employment in violation of Section 296 (7) of the State HRL, and Section 8-107(7) of the City HRL.

122. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

123. All of these damages have been exacerbated by the latest events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

EIGHTH CLAIM FOR RELIEF

(Conspiracy to Discriminate)

124. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 117 above with the same force and effects as if fully set forth herein.

125. Defendant TA and defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, conspired to discriminate by aiding, abetting, inciting, compelling and coercing

plaintiff, collectively and individually, to stop driving TA passenger buses based on religion and gender, and relegated her to depot duties in violation of the New York State Executive Law § 296(6).

126. Defendant TA and defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, conspired to retaliate against plaintiff for speaking out against her discrimination.

127. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's, wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

128. All of these damages have been exacerbated by the latest events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

NINTH CLAIM FOR RELIEF

(Violation of First Amendment Right)

129. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 121 above with the same force and effect as if fully set forth herein.

130. Defendant TA and defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, ,individually and collectively, acted with wanton and reckless disregard for plaintiff's civil rights, religious appearance and belief, under the First Amendment to the United States Constitution, and the New York State Constitution Article 1.

131. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

132. All of these damages have been exacerbated by the latest events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

TENTH CLAIM FOR RELIEF

(Violation Freedom of Speech)

133. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through 125 above with the same force and effect as if fully set forth herein.

134. In retaliation against plaintiff for having spoken out on matters of public concern, defendant TA and defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, have abridged plaintiff's rights to freedom of speech under First Amendment to the United States Constitution, and Article 1, Section 8 of the New York State Constitution.

135. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis's, and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

136. All of these damages have been exacerbated by the latest events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

ELEVENTH CLAIM FOR RELIEF

(Denial of Equal Protection Clause)

137. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through paragraph 129 above with the same force and effect as if fully set forth herein.

138. Defendant TA and defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively have denied plaintiff equal protection of the laws because of her gender and religion, in violation of the Fourteenth Amendment to the United States Constitution and Article I, Section 11 of the New York State Constitution.

139. Defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's actions, individually and collectively, are willful and deliberate and are done under the color of law. These acts constitute a pattern, custom and practice in violation of plaintiff constitutional rights under 42 U.S.C. § 1983.

140. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional distress, physical injury, as well as in money damages including but not limited to

regular wages, overtime wages, retirement benefits, insurance benefits and pension.

141. All of these damages have been exacerbated by the latest events surrounding plaintiff's most recent discrimination, retaliation, hostile environment, disparate treatment and termination.

TWELFTH CLAIM FOR RELIEF

(Discriminatory Discharge)

142. Plaintiff repeats and realleges each and every allegation contained in paragraph 1 through 134 above with the same force and effect as if fully set forth herein.

143. Defendant TA has unlawfully and intentionally discharged plaintiff based on her religion and religious appearance in violation of 42 U.S.C. §§ 2000-1(a)(1), Section 296 (1) of the State HRL, and Section 8-107 of the City HRL.

144. Defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, have unlawfully and intentionally discharged plaintiff based on her religion and religious appearance in violation of Section 296 (1) of the State HRL, and Section 8-107 of the City HRL.

145. As a result of the defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's wrongful actions, individually and collectively, complained of herein, plaintiff has suffered severe damages in the form of humiliation, embarrassment, emotional

distress, physical injury, as well as in money damages including but not limited to regular wages, overtime wages, retirement benefits, insurance benefits and pension.

PRAYER FOR RELIEF

146. WHEREFORE, plaintiff respectfully requests that this Court enter:

a) A Declaratory Judgment against the defendant TA declaring that the acts complained of herein violate the rights of plaintiff as guaranteed under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq*., New York State Executive Law, New York City Administrative Code, First Amendment to the Constitution of the United States, the Fourteenth Amendment to the Constitution of the United States, New York State Constitution Sections 8 and 11;

b) A Declaratory Judgment against defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, declaring that the acts complained of herein violate the rights of plaintiff as guaranteed under New York State Executive Law, New York City Administrative Code, First Amendment to the Constitution of the United States, the Fourteenth Amendment to the Constitution of the United States, New York State Constitution Sections 8 and 11;

c) A judgment granting equitable relief directing defendant TA and defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and

Elizabeth Currey, individually and collectively, to cease and desist from exposing plaintiff to discrimination and retaliation and reinstating her to full status as a Bus Operator or Station Agent;

d) A judgment directing defendant TA and defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, to reimburse and make plaintiff whole for any and all earnings she would have received but for defendants' discriminatory treatment and unlawful dismissal, including but not limited to, back pay and pension benefits;

e) A judgment awarding plaintiff compensatory damages against the defendant TA for mental anguish, loss of dignity, humiliation, and injury to livelihood in an amount that is fair, just, and reasonable, to be determined at trial, including reasonable attorneys' fees, as provided in 42 U.S.C. § 2000e-5(k); New York State Executive Law; and New York City Administrative Code.

f) A judgment awarding plaintiff compensatory damages against the defendant TA and defendants Richard Dicciarello, Richard Herman, Steve LoPiano, Tommy Davis, Benny Pepperino, Bonnie Bellamay, Charles Glasgow, Bridget Cooper Mathis, and Elizabeth Currey, individually and collectively, for mental anguish, loss of dignity, humiliation, and injury to livelihood in an amount that is fair, just, and reasonable, to be determined at trial, including reasonable attorneys' fees, as provided in 42 U.S.C. § 1988, New York Executive Law § 297(4)(c)(ii), § 297 (4)(c)(iii); New York City Administrative Code § 8-502.

g) A judgment awarding plaintiff double damages for defendant TA's and defendants Richard Dicciarello's, Richard Herman's, Steve LoPiano's, Tommy Davis', Benny Pepperino's, Bonnie Bellamay's, Charles Glasgow's, Bridget Cooper Mathis', and Elizabeth Currey's intentional discrimination, individually and collectively;

g) A judgment awarding plaintiff front pay;

h) A judgment awarding plaintiff punitive damages; and

i) A judgment granting plaintiff such other and further relief as the Court deems appropriate.

JURY TRIAL DEMAND

Plaintiff hereby demands a trial by jury on all issues in this action that are so triable pursuant to 42 U.S.C. § 1981 and Title VII, Civil Rights Act of 1991.

Dated New York, NY
March 23, 2006

__________/s/__________________

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CERTIFICATE OF SERVICE

I, ALLY HACK, Esq. do hereby certify that I served the within First Amended Complaint on this date, on all parties in the case via filing with the Court's Electronic Case Filing (ECF) system.

Dated: March 23, 2006

ALLY HACK, ESQ.